ORDINANCE 16-02

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING CHAPTER 18, ENTITLED "ENVIRONMENT", ESTABLISHING ARTICLE III, ENTITLED "FERTILIZER REGULATIONS", SECTIONS 18-61 THROUGH 18-100, INCLUSIVE; AMENDING ARTICLE IV, ENTITLED "MARCO ISLAND LAWN AND LANDSCAPING MAINTENANCE CERTIFICATION REGULATIONS" IN CHAPTER 8, ENTITLED "BUSINESSES", IN THE MARCO ISLAND CODE OF ORDINANCES; REVISING THE REGISTRATION AND PERMITTING REQUIREMENTS FOR LAWN AND LANDSCAPING BUSINESSES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Marco Island is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, Section 1.01 of the Marco Island Charter empowers the City to adopt, amend, or appeal ordinances, resolutions and codes as may be required for the benefit of the City; and

WHEREAS, the Marco Island City Council desires to regulate the use of fertilizers containing nitrogen or phosphorous to minimize the negative environmental effects these fertilizers have in and on the waterbodies within and around the City of Marco Island, which degrade the quality of life, and jeopardize the health, safety, and welfare of the citizens of Marco Island; and

WHEREAS, Marco Island City Council finds it to be in the best interests of its citizens to amend the Marco Island Code of Ordinances accordingly.

[1] Proposed additions to existing City Code text are shown by <u>underlining</u>; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA[1] :

SECTION 1. Recitals.

The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance.

SECTION 2. Amendment Adding Fertilizer Regulations.

The Code of Ordinances, Marco Island, Florida, is hereby revised by establishing Article III, entitled "Fertilizers Regulations", Sections 18-61 through 18-100, inclusive, in Chapter 18, entitled "Environment", as follows:

Chapter 18 -- ENVIRONMENT

....

ARTICLE III. – FERTILIZER REGULATIONS

Sec. 18-61. - Short title.

This Article shall be known and may be cited as the "City of Marco Island Fertilizer Control Ordinance".

Sec. 18-62. - Intent and Purpose.

(1) To provide for the regulation of fertilizers containing nitrogen or phosphorous and to provide specific management guidelines for fertilizer application in order to minimize the negative environmental effects said fertilizers have in and on the waterbodies within and surrounding the City of Marco Island.

(2) These guidelines and practices are established to help communities, developers, builders, contractors, businesses and homeowners be partners in improving and protecting Florida's environment.

(3) This Article III "Fertilizer Regulations" is based on the *Model Ordinance for Florida-Friendly Fertilizer Use* or equivalent as encouraged by Section 403.9337, Florida Statutes.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

(4) Nitrogen and phosphorous are essential ingredients for plant growth; however, overuse and improper application of these nutrients create water quality issues and pollute our treasured natural waters. They promote algae blooms and other excessive plant growth. Low to no phosphorus fertilizer and slow release nitrogen fertilizer, along with proper utilization, result in absorption by plants and lower levels of nitrogen and phosphorus reaching the water bodies within and surrounding the City of Marco Island and their associated watersheds.

(5) Certification and training, as required by Article IV (Marco Island Lawn and Landscape Maintenance Registration Regulations), will result in increasing the knowledge of lawn and landscape maintenance professionals, and their customers, of:

(a). The effects of pesticides, fertilizers and overwatering on the environment;
(b). Ways to reduce the amount of fertilizers and pesticides utilized; and
(c). Methods to limit water use on lawns and landscapes thus potentially lowering the impacts of nonpoint source pollution on local water bodies.

Sec. 18-63. - Definitions.

Application means the physical deposition of fertilizer to turf or landscape plants.

Applicator means any person who applies, in any manner, fertilizer to turf or landscape plants within the city as defined in this ordinance.

Approved Best Management Practices Training Program means a training program approved per Section 403.9338, Florida Statutes, or any more stringent requirements set forth in this Article that includes the most current version of the Florida Department of Environmental Protection's "*Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008*," as revised, and approved by the City Manager or designee.

Best Management Practices means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

City Manager means the City Manager or his designee, who will administer and enforce the provisions of this Article.

Code Compliance Officer or Inspector means any designated employee or agent of the City of Marco Island whose duty it is to enforce codes and ordinances enacted by the City.

Commercial Fertilizer Applicator, except as provided in Section 482.1562(9), Florida Statutes, means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer and includes the employer of the applicator.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to a lawn (turf), specialized turf, or landscape plant.

Fertilizer means any substance that contains nitrogen, phosphorus, or any combination of these plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Guaranteed Analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Impervious surface means a constructed surface, such as a sidewalk, road, parking lot, or driveway, covered by impenetrable materials such as asphalt, concrete, brick, pavers, stone, or highly compacted soils.

Institutional Applicator means any person, other than a private, non-commercial or commercial applicator who applies fertilizer for the purpose of maintaining turf or landscape plants. Institutional applicators shall include, but shall not be limited to, owners and managers or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium or common ownership.

Landscape Plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Lawn and Landscape Professional means any person who engages in solicitation for the delivery of lawn or landscaping maintenance and services.

Low Maintenance Zone means an area a minimum of ten (10) feet wide adjacent to watercourses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Leaching means the process by which soluble constituents are dissolved and filtered through the soil by a percolating fluid.

Non-Commercial Applicator means any person other than a commercial fertilizer applicator or institutional applicator who applies fertilizer on turf or landscape plants in the city, such as an individual owner of a single-family residential unit.

Person means any natural person and shall also mean any business, corporation, association, club, organization, and/or any group of people acting as an organized entity.

Prohibited Application Period means the time period during which any of the following are likely: Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of Collier County, issued by the National Weather

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

Service, or if heavy rain (World Meteorological Organization definition of heavy rain is rainfall greater than or equal to 50 mm (2 inches) in a 24 hour period).

Rainy season means June 1 through September 30 of each calendar year.

Rapid Release or Water Soluble Nitrogen means any product containing:

(1) Ammonium Nitrate.
(2) Ammonium Sulfate.
(3) Calcium Nitrate.
(4) Diammonium Phosphate.
(5) Monoammonium Phosphate.
(6) Potassium Nitrate.
(7) Sodium Nitrate.
(8) Urea (not in the form of slow release nitrogen).
(9) Others as may be designated in writing by the Administrator.

Runoff means the water that results from and occurs following a rain event, or following an irrigation event, because the water is not absorbed by the soil or landscape and flows from the area.

Saturated Soil means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble Nitrogen means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a "rapid release nitrogen" product. Forms of slow release, controlled release, slowly available, or water insoluble nitrogen include:

(1) Isobutylidene diurea (IBUD).
(2) Resin, Polymer, or Sulphur coated urea.
(3) Biosolids or residuals from domestic wastewater treatment.
(4) Ureaformaldehyde.
(5) Composted animal manure.
(6) Others as may be designated in writing by the City Manager or designee.

Turf, Sod, or Lawn means a piece of grass-covered soil held together by the roots of the grass.

Wetlands means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soils [See 62-340 F.A.C.].

Yard Waste means shredded yard clippings, leaves, grass clippings, coconuts, limbs and any plant debris created in the act of mowing, trimming and removal of vegetation.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

Sec. 18-64. - Fertilizer Regulations.

(1) *Applicability.* This Section shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the City of Marco Island unless such applicator is specifically exempted by the terms of this Section from the regulatory provisions of this Section. This Section shall be prospective only, and shall not impair any existing contracts.

(2) *Exemptions.* This Section shall not apply to:

(a) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.

(b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock.

(c) Yard waste compost, mulches, or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil. Yard wastes shall not be disposed of or stored by shorelines, seawalls, swales or near storm drains.

(d) Athletic Fields that are maintained by a public entity and used by the public are exempt from fertilizer application regulations under Section 18-64 (6)a of this Article.

(e) Newly planted turf and/or landscape plants may be fertilized only for a sixty (60) day period beginning 30 days after planting, if needed to allow the plants to become well established. Caution should be used to prevent direct deposition of nitrogen and phosphorus into the water.

(3) *Impervious surfaces.* Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall grass clippings, vegetative material, and/or vegetative debris, including coconuts either intentionally or accidentally, be washed, swept, thrown, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways.

(4) *Fertilizer Free Zones.*

(a) Fertilizer shall not be applied within ten (10) feet of any pond, stream, storm drain, watercourse, lake, canal or wetland as defined by the Florida Department of Environmental Protection, or from the top of a seawall.

(b) Spreader deflector shields are required when fertilizing adjacent to Fertilizer Free Zones or impervious surfaces.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

(5) *Timing of Fertilizer Application.*

(a) No applicator shall apply fertilizers containing nitrogen or phosphorous to turf and/or landscape plants during the rainy season (June 1 - September 30) and the Prohibited Application Period and to saturated soils.

(6) *Fertilizer Content and Application Rate.*

(a) Phosphorus fertilizer shall not be applied to turf or landscape plants unless a soil or tissue deficiency has been verified by an approved test. Where a deficiency has been verified, phosphorous fertilizer shall not be applied at application rates that exceed 0.25 lbs. P_2O_5/1000 ft^2 per application and not to exceed 0.50 lbs. P_2O_5/1000 ft^2 per year.

(b) Fertilizer applied to turf or landscape plants within the city must contain no less than 50% slow release nitrogen per guaranteed analysis label as guaranteed analysis and label are defined in chapter 576, Florida Statutes.

(c) Total Yearly Applications. Fertilizers shall not be applied more than four (4) times during any one calendar year to a single area. No more than four (4) pounds of nitrogen per 1000 square feet shall be applied to any turf or landscape area in any calendar year.

(d) Where fertilizer application is not described in this article, fertilizer shall be applied in accordance with requirements and directions provided by Rule 5E-1.003, Florida Administrative Code for turf and as found in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs.

7) *Education and Outreach.*

(a) The City of Marco Island will provide educational materials, notices and/or presentations notifying residents that fertilizers applied within the City shall be formulated and applied in compliance with this Section.

i) The Beautification Committee, in conjunction with City staff, shall incorporate into their community outreach programs no less than two educational sessions on the requirements of the fertilizer ordinance per year.

(b) Retail businesses within the City selling fertilizer are requested to post a notice in a conspicuous location near the fertilizer notifying customers of this ordinance.

Sec. 18-65 - Permitting, Penalties and Enforcement.

1) Permitting. All persons intending to apply fertilizer are required to obtain appropriate permits from the City.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

(a)A minimum of one business day prior to fertilizer application within the City, the person must apply for an e-mail permit, free of charge, indicating the location, type of fertilizer and acknowledgement that a spreader deflector will be utilized.

(b) Codes Enforcement may visit any site where fertilization is occurring and stop work if a permit was not received or if improper products or methods are being employed.

2) Upon the request of Code Enforcement, applicators shall be required to provide the label for fertilizer being applied to verify compliance with this ordinance.
3) Any person who violates any provision of this ordinance shall be guilty of a noncriminal infraction. Violators will be subject to the issuance of a citation imposing the following penalties: (i) First Violation – a fine up to $150; and (ii) Each Subsequent Violation – a fine not to exceed $300.
4) Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of any Section of this Article shall be punished by revocation of any certification issued under this Article, and other penalties as may be imposed by the Code Enforcement Magistrate pursuant to this Code, Chapter 14 of City Code of Ordinances, and Florida law.

Secs. 18-66 --- 18-100. - Reserved

SECTION 3. Amendments to Marco Island Lawn and Landscaping Maintenance Certification Regulations.

The Code of Ordinances, Marco Island, Florida, is hereby revised by amending Article IV, entitled "Marco Island Lawn and Landscaping Maintenance Certification Regulations", Sections 8-71 through 8-81, inclusive, in Chapter 8, entitled "Businesses", as follows:

Chapter 8. - BUSINESSES

....

ARTICLE IV. – MARCO ISLAND LAWN AND LANDSCAPE MAINTENANCE ~~CERTIFICATION~~ REGISTRATION REGULATIONS

Sec. 8-70. - Intent and purpose.

The intent and purpose of this article is to require any person or business entity performing lawn or landscaping maintenance work in the City of Marco Island to possess minimum

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

qualifications and competency that will assist in strengthening and promoting public awareness of the need to engage in certain lawn and landscape maintenance activities and therefore mitigate long-term and immediate adverse impacts from stormwater run-off into natural water bodies located in and adjacent to the City of Marco Island.

Sec. 8-71. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicator means any person who applies, in any manner, fertilizer to turf or landscape plants within the City as defined in this ordinance.

Certification means the process of completing the State approved course and test as required in Florida Statute 482.1562

Commercial Fertilizer Applicator, except as provided in Section 482.1562(9), Florida Statutes, means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer and includes the employer of the applicator.

Landscape architect means an individual licensed by the State of Florida responsible for the preparation of landscaping plans and design.

Lawn and landscape professional means any person who engages in solicitation for the delivery of lawn, landscaping or lawn or landscaping maintenance services.

Non-Commercial Applicator means any person other than a commercial fertilizer applicator or institutional applicator who applies fertilizer on turf or landscape plants in the City, such as an individual owner of a single-family residential unit.

Registration is the process of applying to the City for recognition of appropriate certification to apply fertilizer within the City and receipt of a decal identifying the vehicles of the approved applicators.

Sec. 8-72. – Exemptions ~~Exception~~.

The ~~certification~~ registration requirement of this article shall not apply to the following:

(1) Any individual non-commercial property owner engaging in lawn, landscaping or lawn or landscaping maintenance on one's own property;

(2) Any landscape architects licensed by the State of Florida engaging in lawn or landscaping maintenance services;

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

(3) Any individual or business entity, which possesses a license from the State of Florida to apply herbicides, pesticides, chemicals; or

(4) Any individual or business entity possessing a valid specialty contractor's license from Collier County, Florida for the delivery of services such as landscaping, tree removal and trimming, and irrigation.

Sec. 8-73. - Regulated activities.

(a) It shall be a violation of this Code to provide any lawn and landscaping, ~~or lawn or landscaping~~ maintenance and services in the city without first being certified and registered with the city as a lawn and landscape professional as provided herein.

(b) Any lawn and landscaping~~e or lawn or landscape~~ maintenance and services, including fertilizer application, provided to the city by a lawn and landscape professional shall have at least one supervisor at each work site registered with ~~certified by~~ the city as a lawn and landscape professional. In addition, all business entities under contract with the city shall have ten percent of their staff certified and registered with ~~by~~ the city as a lawn and landscape professional within six months of entering into a contract with the city; and 50 percent of their staff certified by the city as a lawn and landscape professional within one year of entering into a contract with the city.

(d) (c) Any lawn and landscaping ~~and landscape~~ maintenance or services, including fertilizer application, provided by lawn and landscape professionals within the city shall have at least one supervisor certified ~~by~~ and registered with the city as a lawn and landscape professional. These businesses shall provide at least one supervisor and/or crew leader per vehicle ~~certified~~ registered by the city as a lawn and landscape professional within one year of adoption. Any landscaping professional applying fertilizer is required to be state certified and city registered.

Sec. 8-74. - Certification application; contents.

1) Training and Licensing.

a) Section 482.1562, Florida Statutes, contains language regarding the limited certification of urban landscape commercial fertilizer application. Fertilizer applicators, as certified under that section of state statute, shall have and carry in their possession at all times when applying fertilizer, evidence of that certification.

b) The City also hereby requires lawn and landscape professionals, except as exempted above, to abide by and successfully complete the six-hour training program in the *Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries* offered by the Florida Department of Environmental Protection through

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

the University of Florida Extension program (or approved equivalent), as well as local ordinance requirements, as amended.

2) Lawn and Landscape Professional Registration. It shall be a violation of this Article for lawn and landscape professionals, except as exempted above, to fertilize lawns or landscape plants without first being certified with the state of Florida and business registered with the City as provided herein.

a) Any lawn, landscaping and landscape maintenance business that applies fertilizer shall register supervisors/crew leaders with the City.

b) Lawn and Landscape Professionals registering with the City as such shall:

i) Attend and successfully complete the six-hour training program as described above.

ii) Attend and successfully complete the three-hour annual refresher course (or approved equivalent) for renewal of registration.

~~(1) Except as otherwise provided in section 8-72, all persons before entering into or upon property within the city to perform lawn, landscaping or lawn or landscaping maintenance shall demonstrate knowledge of the relationship between their profession and the environment through both experience and education.~~

iii) Certification and registration shall be based on demonstrated ability, experience, and education in the following areas of competency:

(a) Effects of the environment from sediment, nutrients, and pesticides moving off-site through surface or ground water.

(b) Site design and plant selection to enhance the natural environment.

(c) Rates and methods of applying fertilizer and irrigation that minimize negative environmental consequences.

(d) Utilization of integrated pest management to both minimize pests and decrease chemical applications.

iv) Illustrate an ability to apply his or her knowledge of the concepts identified herein by providing a written, detailed management plan that outlines maintenance activities to be carried out for specific locations.

v) Provide an initial application fee of $50.00, which shall be used to defray the costs of the program. A fee of $15.00 shall be charged to renew certification. The application fee may be amended by resolution of the City Council as may be necessary.

~~(1) A person applying for certification by the city as a lawn and landscape maintenance professional shall provide evidence of completing a course of study from the Rookery~~

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

~~Bay National Estuarine Research Reserve, Naples, Florida, or other approved provider, with at least six hours of instruction in the areas identified under section 2. Confirmation of attendance in a three-hour annual refresher course from Rookery Bay National Estuarine Research Reserve, or other approved provider must be provided to the city prior to issuance of a renewal certification.~~

~~(2) A person applying for certification by the city as a lawn and landscape maintenance professional shall illustrate an ability to apply his or her knowledge of the concepts identified herein by providing a written, detailed management plan that outlines maintenance activities to be carried out for a specific location.~~

c) ~~(4)~~ The city shall provide any person who has satisfied the requirement set forth herein and paid the application fee, ~~a certificate~~ registration and a decal indicating the city considers that person to be a certified lawn and landscape maintenance professional.

d) ~~(5)~~ The ~~certification~~ registration program shall be managed and administered by the growth management department. However, the ~~city council~~ City Manager or designee shall retain the authority to approve ~~certification~~ registration of any applicant for lawn and landscape registration ~~maintenance certification~~.

e) It shall be the responsibility of the landscape professional to complete required training and to register with the City.

Sec. 8-75. - Duration, renewal.

A ~~certification~~ registration issued under this article shall be valid for one year. Renewals for an additional one-year period may be granted, unless previously issued registrations ~~certificates~~ are revoked as provided in this article. A maximum of two one-year renewals will be granted without submission of a new registration ~~certification~~ application and without payment of the applicable registration ~~certification~~ fee. However, prior to receiving a renewed registration ~~certification~~, the applicant must update and make any necessary changes needed to the previously submitted ~~certification~~ application. Certification with the state must occur in compliance with state regulations.

Sec. 8-76. - Duty to carry, exhibit certification and receive appropriate permit.

(1) Identification. Every ~~certified~~ registered lawn and landscaping professional shall carry his or her registration ~~certification~~ and photo identification at all times while engaged in lawn or landscaping maintenance work in the city.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

a) The City-issued Lawn and Landscape Professionals decal shall be displayed on every state-licensed motor vehicle used by a commercial fertilizer applicator or institutional applicator, and by lawn and landscape maintenance professionals when performing services within the City limits. One decal will be issued with each registration; each additional decal will cost $5. The decal shall be displayed prominently and in such a manner as not to be obstructed.

(2) Permitting. All registered landscape professionals are required to obtain appropriate permits from the City.

a) A minimum of one business day prior to fertilizer application within the City, the registered professional must apply for an e-mail permit, free of charge, indicating the location, type of fertilizer and acknowledgement that a spreader deflector will be utilized.

b) Codes Enforcement may visit any site where fertilization is occurring and stop work if a permit was not received or if improper products or methods are being employed.

Sec. 8-77. – Reserved. ~~Fees.~~

~~An initial application fee shall be $25.00, which shall be used to defray the costs of certificates and other expenses of the program. A fee of $25.00 shall be charged to renew certification. The application fee may be amended by resolution of the city council as may be necessary.~~

Sec. 8-78. - Revocation authorized; grounds.

~~Certifications~~ Registration issued under this article may be revoked by the city manager or ~~the city manager's~~ designee after notice and hearing for any of the following offenses:

(1) Fraud, misrepresentation or a false statement in the application.

(2) Fraud, misrepresentation or a false statement in the performance of lawn or landscaping maintenance services.

(3) Violation of any condition, provision or qualification provided in the application.

(4) Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law involving theft, fraud, violence or moral turpitude.

(5) Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or menace to public health, safety or welfare.

(6) Failure to comply with any provision of this article and applicable sections of Chapter 18-Environment, of the Marco Island Code of Ordinances.

Sec. 8-79. - Notice of revocation.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

(1) Written notice of revocation of a ~~certification~~ registration issued under this article and the grounds therefor shall be mailed or delivered to a certified lawn and landscaping professional at the address specified in its application.

(2) The public will be notified of revocation of any landscaping professional's registration through the monthly report to City Council, on the City's website and a notification will be posted at City Hall.

Sec. 8-80. - Appeal.

Any person aggrieved by the denial of a ~~certification~~ registration or revocation of a ~~certification~~ registration shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city manager or designee, within 14 days after notice of the action complained of has been mailed or delivered to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city manager or designee shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant at least five days before the date of said hearing. The decision and order of the city council on such appeal shall be final.

Sec. 8-81. - Penalties.

Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of any section of this article shall be punished by revocation of any ~~certification~~ registration issued under this article, and other penalties as may be imposed by the Code Enforcement Magistrate ~~board~~ pursuant to Florida Law or this Code.

SECTION 4. Codification.

It is the intention of the City Council, and it is hereby ordained that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall constitute a new Article V to Chapter 8 of the City of Marco Island Code of Ordinances, and that the sections of this Ordinance may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

SECTION 5. Conflicts.

All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby superseded and resolved to the extent of any conflict in favor of the provisions of this Ordinance.

SECTION 6. Severability.

If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 7. Effective Date.

This Ordinance shall become effective immediately following its adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 7th day of March 2016.

ATTEST:

Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: Robert C. Brown
Robert C. Brown, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney

[1] Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.